

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

CHRISTINE JU,

Plaintiff,

- against -

MICHAEL CAPURSO

Defendant.

-----X

**NAOMI REICE BUCHWALD**  
**UNITED STATES DISTRICT JUDGE**

**O R D E R**

20 Civ. 29 (NRB)

**WHEREAS** on December 2, 2020, the Court held a conference via telephone to address defendant's Rule 2(b) letter seeking leave to move for summary judgment on the grounds that plaintiff did not sustain a "serious injury" within the meaning of New York Insurance Law § 5102(d);

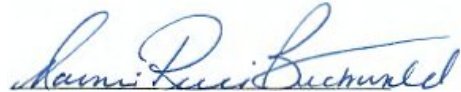
**WHEREAS** at the conference, the Court invited both parties to provide case law on whether plaintiff's alleged five-degree limitation of motion to her cervical spine was sufficient to meet the "serious injury" standard of § 5102(d);

**WHEREAS** defendant has submitted case authority to support the proposition that plaintiff has not sustained a "serious injury" under § 5102(d), and plaintiff has not submitted any authority to the contrary; and

**WHEREAS** based on the record before the Court, it is not clear that plaintiff can proceed with this litigation consistent with Fed. R. Civ. P. 11; it is hereby

**ORDERED** that defendant is granted leave to file a motion for summary judgment.

Dated: New York, New York  
January 20, 2021

A handwritten signature in blue ink, reading "Naomi Reice Buchwald", is positioned above a horizontal line.

NAOMI REICE BUCHWALD  
UNITED STATES DISTRICT JUDGE